

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MICHAEL AARON DUTCHER,

Plaintiff,

v.

ANNE PRECYTHE, et al.,

Defendants.

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No. 4:23-cv-937 RHH

MEMORANDUM AND ORDER

Now before the Court is self-represented Plaintiff’s motion to remand this case to state court. ECF No. 8. Plaintiff initiated this action in federal court. He now realizes that he was “ill-advised” and he has “become informed through further legal research that [he] should have filed this petition in Washington County Circuit Court.” *Id.* at 1. Plaintiff further states that he already has a pending action in that circuit court, and that he should have filed this action “in conjunction with that case, not as a separate case in the district court.” He requests that the Court “remove this complaint from this court and remand it” to state court. *Id.*

This federal court cannot remand an action to state court when the action originated here. “[F]ederal tribunals lack authority to remand to the state court system an action initiated in federal court.” *Levin v. Com. Energy, Inc.*, 560 U.S. 413, 428 (2010). This Court can only remand actions that were removed from state court. *See* 28 U.S.C. § 1447 (remand is a procedure available for removed cases); *Streambend Properties II, LLC v. Ivy Tower Minneapolis, LLC*, 781 F.3d 1003, 1017 (8th Cir. 2015) (stating that “a district court has no power to remand a non-removed case to state court”). This case was not removed from state court. Plaintiff chose to file this action here.

If Plaintiff wishes to now seek relief from another court, he has the power to do that. If he no longer seeks to pursue relief from this Court, he should file a motion for voluntary dismissal.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion to remand this action to state court [ECF No. 8] is **DENIED**.

IT IS FURTHER ORDERED that, within **twenty-one (21) days** of this Order, Plaintiff should file a motion to voluntarily dismiss if he chooses to no longer pursue relief in this action. If Plaintiff does not file such a motion by this deadline, the Court will assume he wishes for this case to proceed. The Court warns Plaintiff that if his pending motion for leave to proceed *in forma pauperis* is granted, he will be responsible for the payment of the full filing fee for this action from his inmate account. See 28 U.S.C. § 1915(b)(1).

Dated this 22nd day of August, 2023.



RODNEY H. HOLMES
UNITED STATES MAGISTRATE JUDGE